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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 DEANDRA MICHELLE SMITH,

13 Defendant.

Case No. 2:22-mj-642-DJA

14 ORDER

15 to
16 **Conduct Preliminary Hearing and**
17 **File Indictment**
18 **(Fifth Request)**

19 IT IS HEREBY STIPULATED AND AGREED, by and between Jason M.
20 Frierson, United States Attorney, and Kimberly M. Frayn, Assistant United States
21 Attorney, counsel for the United States of America, and Rene L. Valladares, Federal Public
22 Defender, and Brian Pugh, Esq., Assistant Federal Public Defender, counsel for Defendant
23 Deandra Michelle Smith that the Court vacate the Preliminary Hearing schedule for
24 December 11, 2023, and continue it for 90 days. This request requires that the Court extend
two deadlines: (1) that a preliminary hearing be conducted within 21 days of an undetained
defendant's initial appearance, *see* Fed. R. Crim. P. 5.1(c); and (2) that an information or
indictment be filed within 30 days of a defendant's arrest, *see* 18 U.S.C. § 3161(b).

24 This stipulation is entered into for the following reasons:

1 1. Defendant and defense counsel need additional time to receive and review
2 discovery, conduct any necessary follow up investigation, and engage in pretrial motion
3 practice, if warranted, before the Preliminary Hearing. Also, the parties are continuing to
4 communicate to see if this matter can be resolved pre-indictment by plea negotiation. If an
5 agreement can be negotiated, the preliminary hearing could be vacated to conserve judicial
6 resources once a change of plea hearing is held.

7 2. Undersigned government counsel was only recently assigned responsibility for
8 this case and needs additional time to become familiar with it. Additionally, the government
9 needs time to review some information that may be relevant, which will not be available
10 until December 2023.

11 3. Under Federal Rule of Criminal Procedure 5.1(c), the Court “must hold the
12 preliminary hearing within a reasonable time, but no later than 21 days after the initial
13 appearance if the defendant is not in custody”

14 4. However, under Rule 5.1(d), “[w]ith the defendant’s consent and upon a
15 showing of good cause—taking into account the public interest in the prompt disposition of
16 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more
17 times”

18 5. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny
19 information or indictment charging an individual with the commission of an offense shall be
20 filed within thirty days from the date on which such individual was arrested or served with a
21 summons in connection with such charges.”

22 6. Additionally, Defendant needs additional time to investigate potential
23 defenses to make an informed decision as to how to proceed.

1 7. Accordingly, the parties jointly request that the Court schedule the
2 preliminary hearing in this case no sooner than 90 days from the current hearing date,
3 December 11, 2023.

4 8. Defendant is not in custody and agrees to the extension of the 21-day deadline
5 imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C.
6 § 3161(b), provided that the information or indictment is filed on or before the date ordered
7 pursuant to this stipulation.

8 9. The parties agree to the extension of that deadline.

9 10. Accordingly, the additional time requested by this stipulation is allowed
10 under Federal Rule of Criminal Procedure 5.1(d).

11 11. In addition, the parties stipulate and agree that the time between today and
12 the preliminary hearing is excludable in computing the time within which the defendant
13 must be indicted, and the trial herein must commence pursuant to the Speedy Trial Act, 18
14 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i)
15 and (iv).

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12. This is the fifth request for an extension of the deadlines by which to conduct the preliminary hearing and to file an indictment.

DATED this 28th day of November, 2023.

Respectfully Submitted,

RENE L. VALLADARES
Federal Public Defender

JASON M. FRIERSON
United States Attorney

/s/ Brian Pugh
BRIAN PUGH
Assistant Federal Public Defender
Counsel for Defendant SMITH

/s/ Kimberly M. Frayn
KIMBERLY M. FRAYN
Assistant United States Attorney

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Case No. 2:22-mj-642-DJA

Plaintiff,

V.

DEANDRA MICHELLE SMITH,

Defendant.

ORDER on Stipulation to Extend Deadlines to Conduct Preliminary Hearing and File Indictment

Based on the stipulation of counsel, good cause appearing, and the best interest of justice being served; the time requested by this stipulation being excludable in computing the time within which the defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled for December 11, 2023 be vacated and continued to March 11, 2024, at 4:00 p.m., Courtroom

**No further extensions will be granted absent extreme unforeseen circumstances.

DATED this 29th day of November, 2023.

Fluorescent circuit

DANIEL J. ALBREGTS
United States Magistrate Judge